

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ROBERT R. WOLF,

Plaintiff,

v.

Civ. No. 23-1120 JCH/SCY

TIMOTHY HATCH; JOHN
SANCHEZ; KRISTAL RIVERA;
CHERYL DOREN; and
CARL WILKENS,

Defendants.

ORDER TO SUPPLEMENT *MARTINEZ* REPORT

In Plaintiff's complaint, he alleges that in February/March 2022, May 2022, and June 2023 he received rejection notices from the mail room for legal books that had been previously approved. Doc. 1 at 6-7, 15. The Court ordered Defendants, according to *Martinez v. Aaron*, 570 F.2d 317, 320 (10th Cir. 1978), to investigate the incidents underlying Plaintiff's claims and submit a report of their investigation in order to develop a factual or legal basis for determining whether Plaintiff has meritorious claims. Doc. 16. Specifically, the Court directed Defendants to file a *Martinez* Report that included any records or documents pertaining to the events at issue. *Id.*

In response, Defendants filed a *Martinez* Report that includes Plaintiff's grievances related to the February/March 2022 rejection notice, but no other grievances related to the May 2022 or June 2023 rejections notices. Additionally, Defendants did not provide any of the rejection notices themselves. Indeed, the affidavits Defendants provided as part of the *Martinez* Report contain conflicting information as to whether the rejection notices exist. *See* Doc. 21-9 ¶ 8 (affidavit of Defendant Timothy Hatch, certifying that "[a]t no time was Mr. Wolf denied

receipt of papers or books by mail or mail order”); Doc. 21-10 ¶ 9 (affidavit of Defendant Cheryl Duran, certifying that “Mr. Wolf received several rejection notices from the mailroom when, for example, mail was suspicious and/or contained contraband and/or could be used as a weapon, or when the materials were available in the Prison Library”); Doc. 21-11 ¶ 3 (affidavit of Defendant Krystal Rivera, certifying that “Mr. Wolf was upset because he ordered his own magazine subscription to Prison News which, per policy, was not permitted because the CNMCF library already had a subscription”).

Accordingly, Defendants are instructed to supplement the *Martinez* Report with any mail room rejection notices sent to Plaintiff during 2022 and 2023, including notices that may have been sent on the following dates: February 10, 2022; March 11, 2022; March 30, 2022; April 16, 2022; May 10, 2022; June 2, 2023; and June 14, 2023. Additionally, Defendants shall supplement the *Martinez* Report with any grievances Plaintiff submitted related to the May 2022 and June 2023 rejection notices. If no rejection notices or further grievances exist, Defendants shall certify as much.

IT IS THEREFORE ORDERED that by May 23, 2025, Defendants shall supplement the *Martinez* Report as listed above. By June 23, 2025, Plaintiff may file a response to the supplemental report. The parties are hereby given notice that the *Martinez* Report, including this supplemental information, may be used in deciding whether to grant summary judgment. Therefore, Plaintiff should submit any conflicting evidence he may have to controvert the facts set out in the report.

IT IS SO ORDERED.


Steven C. Yarbrough
United States Magistrate Judge